



February 20, 2004

ENGROSSED HOUSE BILL No. 1436

DIGEST OF HB 1436 (Updated February 19, 2004 10:50 am - DI 106)

Citations Affected: IC 4-13; IC 4-33; IC 33-11.6; IC 33-19; noncode.

Synopsis: Women and minority businesses. Provides that standards developed and a certification made under the minority business enterprise law apply to standards and certifications for minority business enterprises and women's business enterprises under any other Indiana law. Makes changes in definitions in the minority business enterprise law. Makes conforming changes in the riverboat gambling law. Specifies that riverboat owners must annually file information regarding contracts with minority and women's businesses and specifies that this information is not confidential under the public records laws. Provides that personal financial information or confidential business information need not be disclosed. Requires each state agency, separate body corporate and politic, and state educational institution to analyze of the use of minority businesses, small businesses and women owned business enterprises in the contracting done by the agency, separate body, or educational institution.

Effective: July 1, 2004; July 1, 2005.

Crawford

(SENATE SPONSORS — DILLON, BREAUX, SIMPSON)

January 20, 2004, read first time and referred to Committee on Appointments and Claims.
January 29, 2004, amended, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.
February 5, 2004, engrossed. Read third time, recommitted to Committee of One,
amended; passed. Yeas 72, nays 23.
February 6, 2004, re-engrossed.

SENATE ACTION

February 12, 2004, read first time and referred to Committee on Judiciary.
February 19, 2004, amended, reported favorably — Do Pass.

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EH 1436—LS 7049/DI 75+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1436

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.195-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 1. As used in this chapter:

4 "Commission" refers to the governor's commission on minority and
5 women's business enterprises established under section 2 of this
6 chapter.

7 "Commissioner" refers to the deputy commissioner for minority and
8 women's business enterprises of the department.

9 "Contract" means any contract awarded by a state agency for
10 construction projects or the procurement of goods or services,
11 including professional services.

12 "Department" refers to the Indiana department of administration
13 established by IC 4-13-1-2.

14 "Minority business enterprise" or "minority business" means an
15 individual, partnership, corporation, limited liability company, or joint
16 venture of any kind that is owned and controlled by one (1) or more
17 persons who are:

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(1) United States citizens; and

(2) members of a minority group.

"Owned and controlled" means having:

(1) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(2) control over the management and active in the day-to-day operations of the business; and

(3) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

"Minority group" means:

(1) Blacks;

(2) American Indians;

(3) Hispanics;

(4) Asian Americans; and

(5) other similar minority groups, as defined by 13 CFR 124.103.

"Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

"State agency" refers to any of the following:

(1) An authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.

(2) An entity established by the general assembly as a body corporate and politic.

(3) A "State educational institution" has the meaning set forth in IC 20-12-0.5-1.

The term does not include the state lottery commission or the Indiana gaming commission with respect to setting and enforcing goals for awarding contracts to minority and women's business enterprises.

SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.41-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

(1) A governor's designee, who shall serve as chairman of the commission.

(2) The commissioner of the Indiana department of transportation.

(3) The director of the department of commerce.

(4) The commissioner of the department.

(5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following

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geographical areas of the state:

(A) Three (3) from the northern one-third (1/3) of the state.

(B) Three (3) from the central one-third (1/3) of the state.

(C) Three (3) from the southern one-third (1/3) of the state.

(6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.

(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman deems necessary.

(f) The duties of the commission shall include but not be limited to

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the following:

(1) Identify minority and women's business enterprises in the state.

(2) Assess the needs of minority and women's business enterprises.

(3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.

(4) Give special publicity to procurement, bidding, and qualifying procedures.

(5) Include minority and women's business enterprises on solicitation mailing lists.

(6) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, **separate bodies corporate and politic, and state educational institutions** with state and federal legislation and policy concerning the awarding of contracts to minority and women's business enterprises.

(7) Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.

(8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 3. IC 4-13-16.5-3, AS AMENDED BY P.L.195-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) There is created in the department a deputy commissioner for minority and women's business enterprise development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority or women's business enterprises, to serve as deputy commissioner to work with the commission in the implementation of this chapter.

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(b) The deputy commissioner shall do the following:

(1) Identify and certify minority and women's business enterprises for state projects.

(2) Establish a central certification file.

(3) Periodically update the certification status of each minority or women's business enterprise.

(4) Monitor the progress in achieving the goals established under section 2(f)(7) of this chapter.

(5) Require **all** state agencies, **separate bodies corporate and politic, and state educational institutions** to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority and women's business enterprises.

(6) Determine and define opportunities for minority and women's business participation in contracts awarded by **all** state agencies, **separate bodies corporate and politic, and state educational institutions**.

(7) Implement programs initiated by the commission under section 2 of this chapter.

(8) Perform other duties as defined by the commission or by the commissioner of the department.

SECTION 4. IC 4-13-16.5-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6. (a) Notwithstanding any other law, the standards developed under this chapter apply to the determination and certification of a business as a minority business enterprise or a women's business enterprise under any Indiana law.**

(b) Notwithstanding any other law, a certification of a business as a minority business enterprise or a women's business enterprise under this chapter satisfies any Indiana law providing for or requiring the certification of a business as a minority business enterprise or a women's business enterprise.

SECTION 5. IC 4-13-16.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7. For purposes of IC 5-14-3, materials containing:**

(1) personal financial information; or

(2) confidential business information;

submitted by an applicant for certification as a minority business enterprise or a women's business enterprise are confidential.

SECTION 6. IC 4-33-14-5, AS AMENDED BY P.L.92-2003, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2004]: Sec. 5. (a) As used in this section, "goods and services" does not include the following:

- (1) Utilities and taxes.
- (2) Financing costs, mortgages, loans, or other debt.
- (3) Medical insurance.
- (4) Fees and payments to a parent or an affiliated company of an operating agent or the person holding an owner's license, other than fees and payments for goods and services supplied by nonaffiliated persons through an affiliated company for the use or benefit of the operating agent or the person holding the owner's license.
- (5) Rents paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(b) Notwithstanding any law or rule to the contrary, the commission shall establish annual goals for an operating agent or a person issued an owner's license:

- (1) for the use of minority and women's business enterprises; and
- (2) derived from a statistical analysis of utilization study of licensee and operating agent contracts for goods and services that are required to be updated every five (5) years.

(c) An operating agent or a person holding an owner's license shall submit annually to the commission a report that includes the **following information:**

- (1) **The total dollar value of contracts awarded for goods or services and the percentage awarded to minority and women's business enterprises.**
- (2) **The following information relating to each minority business enterprise or women's business enterprise awarded a contract for goods or services:**
 - (A) **The name.**
 - (B) **The address.**
 - (C) **The total dollar amount of the contract.**

A record containing information described in this subsection is not exempt from the disclosure requirements of IC 5-14-3-3 under IC 5-14-3-4.

~~(c)~~ (d) An operating agent or a person holding an owner's license shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that an effort was made to meet the requirements.

~~(d)~~ (e) An operating agent or a person holding an owner's license may fulfill not more than seventy percent (70%) of an obligation under

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1 this chapter by requiring a vendor to set aside a part of a contract for
 2 minority or women's business enterprises. Upon request, the licensee
 3 or operating agent shall provide the commission with proof of the
 4 amount of the set aside.

5 SECTION 7. IC 4-33-14-7 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The commission
 7 shall ~~establish and administer a unified certification procedure~~ **use the**
 8 **certifications made under IC 4-13-16.5** for minority and women's
 9 business enterprises that do business with riverboat operations on
 10 contracts for goods and services or contracts for business.

11 SECTION 8. IC 4-33-14-8, AS AMENDED BY P.L.92-2003,
 12 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2004]: Sec. 8. The commission shall supply persons holding
 14 owner's licenses and the operating agent with a list of the **certified**
 15 minority and women's business enterprises. ~~the commission has~~
 16 ~~certified under section 7 of this chapter. The commission shall review~~
 17 ~~the list annually to determine the minority and women's business~~
 18 ~~enterprises that should continue to be certified. The commission shall~~
 19 ~~establish a procedure for challenging the designation of a certified~~
 20 ~~minority and women's business enterprise. The procedure must include~~
 21 ~~proper notice and a hearing for all parties concerned.~~

22 SECTION 9. IC 33-11.6-4-15, AS AMENDED BY P.L.141-2002,
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2004]: Sec. 15. (a) The costs consist of **the following:**

- 25 (1) A township docket fee equal to five dollars (\$5) plus forty-five
- 26 percent (45%) of the infraction or ordinance violation costs fee
- 27 under IC 33-19-5-2.
- 28 (2) Bailiff's service of process by registered or certified mail fee
- 29 of thirteen dollars (\$13) for each service.
- 30 (3) The cost for the personal service of process by the bailiff or
- 31 other process server in the amount of thirteen dollars (\$13) for
- 32 each service.
- 33 (4) Witness fees, if any, in the amount provided by IC 33-19-1-6
- 34 to be taxed and charged in the circuit court of the county.
- 35 (5) A redocketing fee, if any, of five dollars (\$5).
- 36 (6) A document storage fee under IC 33-19-6-18.1.
- 37 (7) An automated record keeping fee under IC 33-19-6-19. ~~and~~
- 38 (8) A late fee, if any, under IC 33-19-6-20.
- 39 (9) **A judicial administration fee under IC 33-19-6-19.2.**

40 The docket fee and the cost for the initial service of process shall be
 41 paid upon the institution of each case. The cost of service rendered
 42 subsequent to the initial service shall be assessed and paid after such

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service has been made, and the cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 10. IC 33-19-5-1, AS AMENDED BY P.L.1-2002, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A marijuana eradication program fee.
- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) A drug abuse, prosecution, interdiction, and correction fee.
- (6) An alcohol and drug countermeasures fee.
- (7) A child abuse prevention fee.
- (8) A domestic violence prevention and treatment fee.
- (9) A highway work zone fee.
- (10) A deferred prosecution fee (IC 33-19-6-16.2).
- (11) A document storage fee (IC 33-19-6-18.1).
- (12) An automated record keeping fee (IC 33-19-6-19).
- (13) A late payment fee (IC 33-19-6-20).
- (14) A sexual assault victims assistance fee (IC 33-19-6-21).
- (15) A judicial administration fee (IC 33-19-6-19.2).**

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.

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(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) First, the clerk shall apply the partial payment to general court costs.

(2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.

(3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.

(4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.

(5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 11. IC 33-19-5-2, AS AMENDED BY P.L.1-2002, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

(1) A document fee (IC 33-19-6-1, IC 33-19-6-2, IC 33-19-6-3).

(2) An alcohol and drug services program user fee (IC 33-19-6-7(b)).

(3) A law enforcement continuing education program fee (IC 33-19-6-7(c)).

(4) An alcohol and drug countermeasures fee (IC 33-19-6-10).

(5) A highway work zone fee (IC 33-19-6-14).

(6) A deferred prosecution fee (IC 33-19-6-16.2).

(7) A jury fee (IC 33-19-6-17).

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- (8) A document storage fee (IC 33-19-6-18.1).
- (9) An automated record keeping fee (IC 33-19-6-19).
- (10) A late payment fee (IC 33-19-6-20).

(11) A judicial administration fee (IC 33-19-6-19.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

- (1) The alcohol and drug services program user fee.
- (2) The law enforcement continuing education program fee.
- (3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

- (1) the defendant was charged with an ordinance violation subject to IC 33-6-3;
- (2) the defendant denied the violation under IC 33-6-3-2;
- (3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and
- (4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 12. IC 33-19-5-3, AS AMENDED BY P.L.1-2002, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) For each action filed under:

- (1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or
- (2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.

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- (2) A marijuana eradication program fee.
- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) An alcohol and drug countermeasures fee.
- (6) A document storage fee (IC 33-19-6-18.1).
- (7) An automated record keeping fee (IC 33-19-6-19).
- (8) A late payment fee (IC 33-19-6-20).

(9) A judicial administration fee (IC 33-19-6-19.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The marijuana eradication program fee.
- (2) The alcohol and drug services program user fee.
- (3) The law enforcement continuing education program fee.

SECTION 13. IC 33-19-5-4, AS AMENDED BY P.L.1-2002, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100).

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.
- (3) A document storage fee (IC 33-19-6-18.1).
- (4) An automated record keeping fee (IC 33-19-6-19).

(5) A judicial administration fee (IC 33-19-6-19.2).

SECTION 14. IC 33-19-5-5, AS AMENDED BY P.L.167-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a:

- (1) small claims costs fee of thirty-five dollars (\$35); and
- (2) small claims service fee of five dollars (\$5) for each defendant

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named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A document storage fee (IC 33-19-6-18.1).
- (3) An automated record keeping fee (IC 33-19-6-19).

(4) A judicial administration fee (IC 33-19-6-19.2).

SECTION 15. IC 33-19-5-6, AS AMENDED BY P.L.1-2002, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Except as provided under subsection (c), for each action filed under:

- (1) IC 6-4.1-5 (determination of inheritance tax);
- (2) IC 29 (probate); and
- (3) IC 30 (trusts and fiduciaries);

the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120).

(b) In addition to the probate costs fee collected under this section, the clerk shall collect from the party filing the action the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A document storage fee (IC 33-19-6-18.1).
- (3) An automated record keeping fee (IC 33-19-6-19).

(4) A judicial administration fee (IC 33-19-6-19.2).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 16. IC 33-19-6-19.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 19.2. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.**
- (2) A proceeding for an infraction violation.**
- (3) A proceeding for an ordinance violation.**

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In each action filed in a court described in IC 33-19-1-1, the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

(b) In each action in which a person is:

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**
- (3) found to have violated an infraction; or**
- (4) found to have violated an ordinance;**

the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

SECTION 17. IC 33-19-7-1, AS AMENDED BY P.L.167-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a)(1) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

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(7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-19-6-5.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected

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under IC 33-19-6-5 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall monthly distribute to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-19-6-5 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-19-5-5(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-19-6-19.2.

SECTION 18. IC 33-19-7-4, AS AMENDED BY P.L.167-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5(a)(1) (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5(a)(1) (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5(a)(1) (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to

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the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-19-6-19.2.

SECTION 19. [EFFECTIVE JULY 1, 2004] **(a) In addition to a small claims costs fee and small claims service fee collected under IC 33-19-5-5, as in effect on July 1, 2004, the circuit court clerk shall collect a judicial administration fee under IC 33-19-6-19.2, as added by this act, if the judicial administration fee is required to be collected under IC 33-19-6.**

(b) This SECTION expires July 1, 2005.



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1 SECTION 20. [EFFECTIVE JULY 1, 2004] (a) A circuit court
2 clerk shall semiannually distribute to the auditor of state for
3 deposit in the state general fund one hundred percent (100%) of
4 the judicial administration fee collected under IC 33-19-6-19.2.

5 (b) The clerk of a city or town court shall semiannually
6 distribute to the auditor of state for deposit in the state general
7 fund one hundred percent (100%) of the judicial administration fee
8 collected under IC 33-19-6-19.2.

9 (c) This SECTION expires July 1, 2005.

10 SECTION 21. [EFFECTIVE JULY 1, 2004] (a) The definitions in
11 IC 4-13-16.5, as amended by this act, apply throughout this
12 SECTION.

13 (b) As used in this SECTION, "reporting period" refers to the
14 period:

15 (1) beginning January 1, 1999; and

16 (2) ending December 31, 2003.

17 (c) As used in this SECTION, "small business enterprise" has
18 the meaning set forth in 25 IAC 1.5-1-9.

19 (d) As used in this SECTION, "special business enterprise"
20 refers to any of the following:

21 (1) A minority business enterprise.

22 (2) A small business enterprise.

23 (3) A women's business enterprise.

24 (e) Each state agency, separate body corporate and politic, and
25 state educational institution shall analyze the use of special
26 business enterprises in the agency's, body's, or institution's
27 purchasing, construction, and contracting practices.

28 (f) The analysis required by subsection (e) must include the
29 following information, specified for each special business
30 enterprise type described in subsection (d), for each calendar year
31 in the reporting period, and for a state educational institution, for
32 each campus of the state educational institution:

33 (1) Number of contracts awarded.

34 (2) Total dollar amount of contracts awarded.

35 (3) A classification of different contract types awarded by the
36 agency, body, or institution and the number of contracts
37 awarded in each classification.

38 (4) A description of efforts made by the agency, body, or
39 institution to encourage each business enterprise type to do
40 business with the agency, body, or institution during the
41 reporting period.

42 (g) The analysis required by subsection (f) must include the

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1 same information required for the reporting period by subsection
2 (f) for businesses that are not special business enterprises.

3 (h) Each agency, body, and institution shall file a written report
4 in electronic format under IC 5-14-6 of the results of the analysis
5 required by this SECTION with the legislative council not later
6 than November 1, 2004.

7 (i) This SECTION expires January 1, 2006.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Appointments and Claims, to which was referred House Bill 1436, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 2. IC 4-33-14-5, AS AMENDED BY P.L.92-2003, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) As used in this section, "goods and services" does not include the following:

- (1) Utilities and taxes.
- (2) Financing costs, mortgages, loans, or other debt.
- (3) Medical insurance.
- (4) Fees and payments to a parent or an affiliated company of an operating agent or the person holding an owner's license, other than fees and payments for goods and services supplied by nonaffiliated persons through an affiliated company for the use or benefit of the operating agent or the person holding the owner's license.
- (5) Rents paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(b) Notwithstanding any law or rule to the contrary, the commission shall establish annual goals for an operating agent or a person issued an owner's license:

- (1) for the use of minority and women's business enterprises; and
- (2) derived from a statistical analysis of utilization study of licensee and operating agent contracts for goods and services that are required to be updated every five (5) years.

(c) An operating agent or a person holding an owner's license shall submit annually to the commission a report that includes the **following information:**

- (1) **The** total dollar value of contracts awarded for goods or services and the percentage awarded to minority and women's business enterprises.
- (2) **The following information relating to each minority business enterprise or women's business enterprise awarded a contract for goods or services:**
 - (A) **The name.**
 - (B) **The address.**
 - (C) **The total dollar amount of the contract.**

A record containing information described in this subsection is not

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exempt from the disclosure requirements of IC 5-14-3-3 under IC 5-14-3-4.

~~(c)~~ (d) An operating agent or a person holding an owner's license shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that an effort was made to meet the requirements.

~~(d)~~ (e) An operating agent or a person holding an owner's license may fulfill not more than seventy percent (70%) of an obligation under this chapter by requiring a vendor to set aside a part of a contract for minority or women's business enterprises. Upon request, the licensee or operating agent shall provide the commission with proof of the amount of the set aside."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1436 as introduced.)

HARRIS, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1436 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.195-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter:

"Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

"Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

"Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

"Department" refers to the Indiana department of administration established by IC 4-13-1-2.

"Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

- (1) United States citizens; and
- (2) members of a minority group.

"Owned and controlled" means having:

- (1) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;
- (2) control over the management and active in the day-to-day operations of the business; and
- (3) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

"Minority group" means:

- (1) Blacks;
- (2) American Indians;
- (3) Hispanics;
- (4) Asian Americans; and
- (5) other similar minority groups, as defined by 13 CFR 124.103.

"Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

"State agency" refers to any of the following:

- (+) An authority, board, branch, commission, committee,

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department, division, or other instrumentality of the executive, including the administrative, department of state government.

(2) ~~An entity established by the general assembly as a body corporate and politic.~~

(3) ~~★ "State educational institution" has the meaning set forth in IC 20-12-0.5-1.~~

~~The term does not include the state lottery commission or the Indiana gaming commission with respect to setting and enforcing goals for awarding contracts to minority and women's business enterprises.~~

SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.41-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

- (1) A governor's designee, who shall serve as chairman of the commission.
- (2) The commissioner of the Indiana department of transportation.
- (3) The director of the department of commerce.
- (4) The commissioner of the department.
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:
 - (A) Three (3) from the northern one-third (1/3) of the state.
 - (B) Three (3) from the central one-third (1/3) of the state.
 - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.
- (7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

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(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
- (3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman deems necessary.

(f) The duties of the commission shall include but not be limited to the following:

- (1) Identify minority and women's business enterprises in the state.
- (2) Assess the needs of minority and women's business enterprises.
- (3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.
- (4) Give special publicity to procurement, bidding, and qualifying procedures.
- (5) Include minority and women's business enterprises on solicitation mailing lists.
- (6) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, **separate bodies corporate and politic, and state educational institutions** with state and federal legislation and policy concerning the awarding of contracts to minority and women's business enterprises.
- (7) Establish annual goals:
 - (A) for the use of minority and women's business enterprises; and

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(B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.

(8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 3. IC 4-13-16.5-3, AS AMENDED BY P.L.195-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) There is created in the department a deputy commissioner for minority and women's business enterprise development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority or women's business enterprises, to serve as deputy commissioner to work with the commission in the implementation of this chapter.

(b) The deputy commissioner shall do the following:

(1) Identify and certify minority and women's business enterprises for state projects.

(2) Establish a central certification file.

(3) Periodically update the certification status of each minority or women's business enterprise.

(4) Monitor the progress in achieving the goals established under section 2(f)(7) of this chapter.

(5) Require **all** state agencies, **separate bodies corporate and politic, and state educational institutions** to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority and women's business enterprises.

(6) Determine and define opportunities for minority and women's business participation in contracts awarded by **all** state agencies, **separate bodies corporate and politic, and state educational institutions**.

(7) Implement programs initiated by the commission under section 2 of this chapter.

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(8) Perform other duties as defined by the commission or by the commissioner of the department."

Page 3, after line 17, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2004] (a) The definitions in IC 4-13-16.5, as amended by this act, apply throughout this SECTION.

(b) As used in this SECTION, "reporting period" refers to the period:

- (1) beginning January 1, 1999; and**
- (2) ending December 31, 2003.**

(c) As used in this SECTION, "small business enterprise" has the meaning set forth in 25 IAC 1.5-1-9.

(d) As used in this SECTION, "special business enterprise" refers to any of the following:

- (1) A minority business enterprise.**
- (2) A small business enterprise.**
- (3) A women's business enterprise.**

(e) Each state agency, separate body corporate and politic, and state educational institution shall analyze the use of special business enterprises in the agency's, body's, or institution's purchasing, construction, and contracting practices.

(f) The analysis required by subsection (e) must include the following information, specified for each special business enterprise type described in subsection (d), for each calendar year in the reporting period, and for a state educational institution, for each campus of the state educational institution:

- (1) Number of contracts awarded.**
- (2) Total dollar amount of contracts awarded.**
- (3) A classification of different contract types awarded by the agency, body, or institution and the number of contracts awarded in each classification.**
- (4) A description of efforts made by the agency, body, or institution to encourage each business enterprise type to do business with the agency, body, or institution during the reporting period.**

(g) The analysis required by subsection (f) must include the same information required for the reporting period by subsection (f) for businesses that are not special business enterprises.

(h) Each agency, body, and institution shall file a written report in electronic format under IC 5-14-6 of the results of the analysis required by this SECTION with the legislative council not later than November 1, 2004.

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(i) This SECTION expires January 1, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1436 as printed January 30, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1436 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 3, after line 17, begin a new paragraph and insert:

"SECTION 5. IC 33-11.6-4-15, AS AMENDED BY P.L.141-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) The costs consist of **the following:**

- (1) A township docket fee equal to five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-19-5-2.
- (2) Bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.
- (3) The cost for the personal service of process by the bailiff or other process server in the amount of thirteen dollars (\$13) for each service.
- (4) Witness fees, if any, in the amount provided by IC 33-19-1-6 to be taxed and charged in the circuit court of the county.
- (5) A redocketing fee, if any, of five dollars (\$5).
- (6) A document storage fee under IC 33-19-6-18.1.
- (7) An automated record keeping fee under IC 33-19-6-19. ~~and~~
- (8) A late fee, if any, under IC 33-19-6-20.
- (9) A judicial administration fee under IC 33-19-6-19.2.**

The docket fee and the cost for the initial service of process shall be paid upon the institution of each case. The cost of service rendered subsequent to the initial service shall be assessed and paid after such service has been made, and the cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 6. IC 33-19-5-1, AS AMENDED BY P.L.1-2002, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A marijuana eradication program fee.

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- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) A drug abuse, prosecution, interdiction, and correction fee.
- (6) An alcohol and drug countermeasures fee.
- (7) A child abuse prevention fee.
- (8) A domestic violence prevention and treatment fee.
- (9) A highway work zone fee.
- (10) A deferred prosecution fee (IC 33-19-6-16.2).
- (11) A document storage fee (IC 33-19-6-18.1).
- (12) An automated record keeping fee (IC 33-19-6-19).
- (13) A late payment fee (IC 33-19-6-20).
- (14) A sexual assault victims assistance fee (IC 33-19-6-21).
- (15) A judicial administration fee (IC 33-19-6-19.2).**

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under

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subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.

(5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 7. IC 33-19-5-2, AS AMENDED BY P.L.1-2002, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee (IC 33-19-6-1, IC 33-19-6-2, IC 33-19-6-3).
- (2) An alcohol and drug services program user fee (IC 33-19-6-7(b)).
- (3) A law enforcement continuing education program fee (IC 33-19-6-7(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-19-6-10).
- (5) A highway work zone fee (IC 33-19-6-14).
- (6) A deferred prosecution fee (IC 33-19-6-16.2).
- (7) A jury fee (IC 33-19-6-17).
- (8) A document storage fee (IC 33-19-6-18.1).
- (9) An automated record keeping fee (IC 33-19-6-19).
- (10) A late payment fee (IC 33-19-6-20).

(11) A judicial administration fee (IC 33-19-6-19.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

- (1) The alcohol and drug services program user fee.
- (2) The law enforcement continuing education program fee.
- (3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

- (1) the defendant was charged with an ordinance violation subject to IC 33-6-3;
- (2) the defendant denied the violation under IC 33-6-3-2;

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(3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and

(4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 8. IC 33-19-5-3, AS AMENDED BY P.L.1-2002, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) For each action filed under:

- (1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or
- (2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A marijuana eradication program fee.
- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) An alcohol and drug countermeasures fee.
- (6) A document storage fee (IC 33-19-6-18.1).
- (7) An automated record keeping fee (IC 33-19-6-19).
- (8) A late payment fee (IC 33-19-6-20).

(9) A judicial administration fee (IC 33-19-6-19.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The marijuana eradication program fee.
- (2) The alcohol and drug services program user fee.
- (3) The law enforcement continuing education program fee.

SECTION 9. IC 33-19-5-4, AS AMENDED BY P.L.1-2002,

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SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100).

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.
- (3) A document storage fee (IC 33-19-6-18.1).
- (4) An automated record keeping fee (IC 33-19-6-19).
- (5) A judicial administration fee (IC 33-19-6-19.2).**

SECTION 10. IC 33-19-5-5, AS AMENDED BY P.L.167-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a:

- (1) small claims costs fee of thirty-five dollars (\$35); and
- (2) small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A document storage fee (IC 33-19-6-18.1).
- (3) An automated record keeping fee (IC 33-19-6-19).
- (4) A judicial administration fee (IC 33-19-6-19.2).**

SECTION 11. IC 33-19-5-6, AS AMENDED BY P.L.1-2002, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Except as provided under subsection (c), for each action filed under:

- (1) IC 6-4.1-5 (determination of inheritance tax);

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- (2) IC 29 (probate); and
- (3) IC 30 (trusts and fiduciaries);

the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120).

(b) In addition to the probate costs fee collected under this section, the clerk shall collect from the party filing the action the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A document storage fee (IC 33-19-6-18.1).
- (3) An automated record keeping fee (IC 33-19-6-19).
- (4) A judicial administration fee (IC 33-19-6-19.2).**

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 12. IC 33-19-6-19.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 19.2. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.**
- (2) A proceeding for an infraction violation.**
- (3) A proceeding for an ordinance violation.**

In each action filed in a court described in IC 33-19-1-1, the clerk shall collect a judicial administration fee of in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

(b) In each action in which a person is:

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**
- (3) found to have violated an infraction; or**
- (4) found to have violated an ordinance;**

the clerk shall collect a judicial administration fee of in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

SECTION 13. IC 33-19-7-1, AS AMENDED BY P.L.167-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for

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deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a)(1) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees

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distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-19-6-5.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-19-6-5 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall monthly distribute to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-19-6-5 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-19-5-5(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-19-6-19.2.

SECTION 14. IC 33-19-7-4, AS AMENDED BY P.L.167-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2005]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5(a)(1) (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5(a)(1) (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5(a)(1) (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

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(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-19-6-19.2.

SECTION 15. IC 33-19-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars (\$6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established under IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established under IC 33-13-8 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund established under IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund established under IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established under IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to

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twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established under IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state:

(1) after June 30, 2004, and before July 1, 2005, one million two seven hundred thousand dollars (~~\$1,200,000~~) (\$1,700,000) for deposit into the public defense fund established under IC 33-9-14; and

(2) after June 30, 2005, two million two hundred thousand dollars (\$2,200,000).

SECTION 16. [EFFECTIVE JULY 1, 2004] **(a) In addition to a small claims costs fee and small claims service fee collected under IC 33-19-5-5, as in effect on July 1, 2004, the circuit court clerk shall collect a judicial administration fee under IC 33-19-6-19.2, as added by this act, if the judicial administration fee is required to be collected under IC 33-19-6.**

(b) This SECTION expires July 1, 2005.

SECTION 17. [EFFECTIVE JULY 1, 2004] **(a) A circuit court clerk shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-19-6-18.**

(b) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-19-6-19.2.

(c) This SECTION expires July 1, 2005."

Renumber all SECTIONS consecutively.

(Reference is to HB 1436 as printed January 30, 2004.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1436, begs leave to report that said bill has been amended as directed.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1436, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 25, beginning with "(3)" begin a new paragraph.

Page 5, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 5. IC 4-13-16.5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7. For purposes of IC 5-14-3, materials containing:**

(1) personal financial information; or

(2) confidential business information;

submitted by an applicant for certification as a minority business enterprise or a women's business enterprise are confidential."

Page 12, line 37, delete "of" and insert "**of**,".

Page 13, line 3, delete "of" and insert "**of**,".

Page 16, delete lines 29 through 42.

Page 17, delete lines 1 through 27.

Page 17, line 38, delete "IC 33-19-6-18." and insert "**IC 33-19-6-19.2.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1436 as reprinted February 6, 2004.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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